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April 24, 2012

Marlene H. Dortch, Secretary Federal Communications Commission 445 12th Street, S.W. Washington, DC 20054

Re: Applications of Comcast Corporation, General Electric Company and NBCUniversal Inc. for Consent to Assign Licenses and Transfer Control of Licenses, MB Docket No. 10-56, Response to Bloomberg L.P.'s Comments to Annual Report of Compliance

Bloomberg L.P. v. Comcast Cable Communications, LLC, MB Docket No. 11-104

Dear Ms. Dortch:

Comcast Cable Communications, LLC ("Comcast") hereby responds to the comments filed by Bloomberg L.P. ("Bloomberg") on April 10, 2012 regarding Comcast's and NBCUniversal Inc.'s ("NBCUniversal") February 28, 2012 Annual Report of Compliance (the "Bloomberg Comments"). Despite being styled as "comments" on Comcast's Compliance Report, Bloomberg uses its filing to demand that the Commission "act to enforce its conditions," i.e., grant Bloomberg's pending complaint for enforcement of the news neighborhooding condition (the "Condition") contained in the NBCUniversal Order. Nevertheless, Bloomberg did not submit its filing, with its new, and incorrect, factual claims, in the complaint proceeding itself.

¹ Bloomberg Comments at 8.

² See In the Matter of Applications of Comcast Corp., General Electric Co., and NBC Universal Inc. for Consent To Assign Licenses and Transfer Control of Licensees, Memorandum Opinion and Order, MB Docket No. 10-56, 26 FCC Rcd 4238, 4287–88 ¶ 122 (2011) (hereinafter, the "Order").

³ Because Bloomberg's comments and the facts alleged therein are directly material to Bloomberg's complaint pending in MB Docket No. 11-104, Comcast is filing this response in both MB Docket No. 10-56, where Bloomberg filed its comments, and MB Docket No. 11-104.

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Introduction

In its comments, Bloomberg asserts that, between 2011 and 2012, Comcast has violated the Condition⁴ by (1) relocating MSNBC to existing "news neighborhoods" in Bethel, Connecticut and Etna, New Hampshire and (2) creating new "news neighborhoods" in Crescent City, Florida and Claxton, Georgia, but in each instance leaving the channel position of Bloomberg Television ("BTV") unchanged.

Bloomberg's latest assertions are demonstrably false. As discussed below, the alleged channel relocations *never took place*. Bloomberg's latest submission does not cite any data or other evidence. Bloomberg instead relies upon *ipse dixit* representations of counsel. After careful research, Comcast is unable to determine whether Bloomberg's assertions are based upon flawed (or misinterpreted) third-party data or some other error.

Bloomberg's claims are also flawed as a legal matter because they rest on an implausible definition of a "news neighborhood." As explained in Comcast's prior submissions,⁵ the "narrowly tailored" and transaction-specific Condition that the Commission adopted does not require Comcast to relocate BTV (and a host of other independent news channels) to three- and four-channel groupings, almost all of which were in place years before Comcast acquired an interest in NBCUniversal.⁶

Comcast Did Not Relocate MSNBC in Bethel, Connecticut or Etna, New Hampshire Between 2011 and 2012

In its comments, Bloomberg asserts—without citation—that, between 2011 and 2012, Comcast relocated MSNBC to existing news channel groupings in Bethel, Connecticut and Etna, New Hampshire. These assertions are false. Comcast did not relocate MSNBC on these channel lineups in 2011 or 2012. Both MSNBC and the other news channels cited by Bloomberg occupy the same channel positions today that they occupied prior to January 2011.

Bloomberg alleges that, in Bethel, Connecticut, Comcast relocated MSNBC from channel 183 in 2011 to channel 63 in 2012, thereby placing it beside other news channels that now occupy channel positions 59–62. In fact, as stated in the enclosed declaration

⁴ See Order, 26 FCC Rcd at 4287–88 ¶ 122.

⁵ See Bloomberg L.P. v. Comcast Cable Communications, LLC, Answer of Comcast Cable Communications, LLC, MB Docket No. 11-104 at 21–31 ¶¶ 39–61 (filed July 27, 2011) ("Answer"); Bloomberg L.P. v. Comcast Cable Communications, LLC, Surreply of Comcast Cable Communications, LLC, MB Docket No. 11-104, at 10–11 ¶¶ 17–18 (filed Sept. 27, 2011).

⁶ In its comments, Bloomberg suggests that, during the transaction proceeding, Comcast "vehemently oppose[d]" the Condition that the Commission ultimately adopted. Bloomberg Comments at 4–5. This suggestion is incorrect. Comcast vehemently opposed the condition that Bloomberg proposed, which would have required Comcast affirmatively to create "news neighborhoods." The Commission expressly declined to adopt Bloomberg's proposed condition, and instead adopted a "narrowly tailored" condition that "would only take effect if Comcast[] undertook to neighborhood its news or business news channels," which Comcast has not done. Order, 26 FCC Rcd at 4287–88 ¶ 122 & n.295.

⁷ Bloomberg Comments at 5.

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of Beverly Elliott, there has been no change to MSNBC's channel positions on the Bethel headend in 2011 or 2012. MSNBC has been displayed on both channels 63 and 183 since 2008, long before the NBCUniversal transaction was announced. 9

Likewise, Bloomberg alleges that in Etna, New Hampshire, Comcast relocated MSNBC from channel 114 to channel 25, into a channel grouping with CNBC, CNN, Fox News Channel, HLN, and The Weather Channel. Again, however, there was no change to MSNBC's channel positions on the Etna headend in 2011 or 2012. MSNBC has been displayed on both channels 25 and 114 throughout that entire time period. 11

Comcast Did Not Create New "News Neighborhoods" in Claxton, GA or Crescent City, FL in 2011 or 2012

The Bloomberg Comments also assert that, between 2011 and 2012, Comcast created new "news neighborhoods" in Claxton, Georgia and Crescent City, Florida. These allegations are also false.

On the Claxton lineup, which serves subscribers, Comcast has made no changes of the kind alleged by Bloomberg. As stated in the enclosed declaration of Michael Daves, CNBC, MSNBC, CNN, HLN, and Fox News Channel occupied the same channel positions on the Claxton lineup throughout 2011 and 2012. In fact, the only change affecting the networks cited by Bloomberg on that lineup during that time period was an *expansion in distribution of BTV*, as Comcast moved BTV from the Digital Preferred tier of service to the Digital Starter tier. Is

On the Crescent City headend, Comcast similarly did not create a new "news neighborhood" in 2011 or 2012. Bloomberg asserts that Comcast relocated Fox News Channel and CNBC to channels 33 and 37, thereby placing those networks near CNN and HLN, which occupied channels 35 and 36 on that headend. As stated in the enclosed declaration of Hollie Walterson, however, the Crescent City headend, which serves subscribers, did not experience any channel lineup changes between 2011 and 2012 of the kind alleged in Bloomberg's comments. In fact, on the Crescent City

 $^{^8}$ See Declaration of Beverly Elliott dated April 24, 2012 ("Elliott Decl.") \P 6, attached hereto as Exhibit 1.

⁹ *Id*.

¹⁰ Bloomberg Comments at 5. In any event, as discussed below, the 4–5 channel groupings to which MSNBC was allegedly relocated fall far short of qualifying as news neighborhoods.

¹¹ See Exhibit 1 (Elliott Decl.) ¶ 6.

¹² Bloomberg Comments at 4.

 $^{^{13}}$ See Declaration of Michael Daves dated April 24, 2012 ("Daves Decl.") \P 5–6, attached hereto as Exhibit 2.

¹⁴ *Id*. ¶ 6.

¹⁵ *Id*. ¶ 7.

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headend, channels 33, 35, 36, and 37 are occupied by Spike TV, AMC, Discovery Channel, and Syfy. These channel positions did not change in 2011 or 2012. The Crescent City headend does not carry CNBC at all and carries CNN, HLN, and Fox News Channel on channels 26, 27, and 32. These networks have occupied the same channel positions throughout 2011 and 2012. These networks have occupied the same channel positions throughout 2011 and 2012.

* * *

In sum, Bloomberg's latest filing is wrong—none of the asserted 2011 and 2012 channel relocations took place. Even if Bloomberg's assertions were accepted as correct, however, they would not amount to a violation of the Condition because the groupings to which Bloomberg refers fall well short of the 10–15 channel groupings that constitute news neighborhoods within the meaning of the applicable condition.¹⁹

Bloomberg's continued presentation of erroneous facts should further call into question the basis for its complaint in MB Docket No. 11-104. Moreover, Bloomberg's Comments and the errors they contain reinforce Comcast's position that questions around what constitutes a news neighborhood and where such neighborhoods may exist on the multitude of Comcast's lineups are complex, factual inquiries, which the FCC should approach with care. For the reasons discussed in Comcast's prior filings, Bloomberg's complaint should be denied.

Very truly yours,

/s/ Arthur J. Burke Arthur J. Burke

¹⁸ *Id*.

 $^{^{16}}$ See Declaration of Hollie Walterson dated April 24, 2012 ("Walterson Decl.") \P 6, attached hereto as Exhibit 3.

¹⁷ *Id*.

¹⁹ See Answer at 30, 35–36 ¶¶ 58, 70.

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Marlene H. Dortch

cc:

April 24, 2012

Stephen Díaz Gavin Kevin J. Martin Janet F. Moran Matthew B. Berry Patton Boggs LLP 2550 M Street, N.W. Washington, DC 20037

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Via Hand Delivery and Electronic Filing

Exhibit 1

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC

In the Matter of)	
Applications of Comcast Corporation, General Electric Company and NBCUniversal Inc. for Consent to Assign Licenses and Transfer Control of Licenses.)))))	MB Docket No. 10-56
In the Matter of)	
Bloomberg L.P.,)	
Complainant,)	MB Docket No. 11-104
v.)	
Comcast Cable Communications, LLC,)	
Defendant.)	

DECLARATION OF BEVERLY ELLIOTT

- My name is Beverly Elliott. My business address is 222 New Park Drive,
 Berlin, CT 06037.
- 2. I am the Director of Project Management and Product Engineering,
 Western New England Region, for Comcast Cable Communications, LLC ("Comcast
 Cable" and, together with its affiliates, "Comcast"). I have held that position since 2009,
 and have held other positions providing me with personal knowledge of matters such as
 those discussed below since 2005.

- 3. In my position at Comcast, I am responsible for the initial authorization of channel relocations on a number of headends, including the headends that serve Bethel, Connecticut and Etna, New Hampshire.
- 4. The statements made herein are based on personal knowledge or information I obtained during my employment by Comcast, and my review of certain documents.
- 5. I understand that, in comments filed with the Federal Communications Commission on April 10, 2012, Bloomberg alleged that, between 2011 and 2012, Comcast moved MSNBC on the Bethel, Connecticut headend from channel 183 to channel 63, placing it near Fox News Channel, CNBC, HLN, and CNN, which occupied channels 59–62. Bloomberg also alleged that, between 2011 and 2012, Comcast moved MSNBC on the Etna, New Hampshire headend from channel 114 to channel 25, placing it near the channel positions occupied by CNBC, CNN, Fox News Channel, HLN, and The Weather Channel. Bloomberg's allegations are inaccurate.
- 6. Comcast did not change MSNBC's channel position on the Bethel,
 Connecticut or Etna, New Hampshire headends in 2011 or 2012. In 2008, Comcast
 migrated MSNBC to the Digital Starter level of service (from an analog level of service),
 and at that time Comcast dual-mapped the channel number and displayed MSNBC at
 both its existing channel locations (channel 63 in Bethel and channel 25 in Etna) and at
 an incremental location (channel 183 in Bethel and channel 114 in Etna). Since that time,
 Comcast has not changed MSNBC's channel positions on these headends.
- 7. Similarly, the other news channels cited by Bloomberg have remained at the same channel positions on these headends throughout 2011 and 2012. Fox News

Channel, CNBC, HLN, and CNN have remained in channel positions 59–62 on the Bethel headend. Likewise, CNBC, Fox News Channel, CNN, HLN and The Weather Channel have remained in channel positions 24, 27, 29, 30, and 31 on the Etna headend.

8. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated: Berlin, CT April 24, 2012

Exhibit 2

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC

)	
In the Matter of)	
Applications of Comcast)	
Corporation, General Electric	Ś	MB Docket No. 10-56
Company and NBCUniversal Inc. for	Ś	
Consent to Assign Licenses and)	
Transfer Control of Licenses.)	
)	
In the Matter of)	
Bloomberg L.P.,)	
Bloomoeig E.i.,)	
Complainant,)	MB Docket No. 11-104
-)	
V.)	
)	
Comcast Cable Communications, LLC,)	
Defendent)	
Defendant.)	

DECLARATION OF MICHAEL DAVES

- My name is Michael Daves. My business address is 145 Park of Commerce Drive, Savannah, Georgia 31405.
- 2. I am the Area Vice President of the Big Southeast Region for Comcast Cable Communications, LLC ("Comcast Cable" and, together with its affiliates, "Comcast"). I have held that position since 2010; before that, I was Vice President and General Manager of the Savannah, Georgia area for Comcast and, as a result, I have been responsible for the Savannah area from 2002 to the present.

- In my position at Comcast, I am responsible for the initial authorization of channel relocations on a number of headends, including the headend that serves Claxton, Georgia.
- 4. The statements made herein are based on personal knowledge or information I obtained during my employment by Comcast, and my review of certain documents.
- 5. I understand that, in comments filed with the Federal Communications Commission on April 10, 2012, Bloomberg has alleged that, between 2011 and 2012, Comcast created a new news channel grouping on the Claxton, Georgia headend by relocating CNBC, MSNBC, CNN, HLN, and Fox News Channel to channels 28–32. Bloomberg's allegations are inaccurate.
- 6. Comcast did not relocate channels on the Claxton, Georgia lineup in 2011 and 2012 as Bloomberg alleges. The Claxton lineup, which serves approximately subscribers, has displayed CNBC, MSNBC, CNN, HLN and Fox News Channel on channels 28–32 throughout 2011 and 2012.
- 7. On the Claxton lineup, BTV did move from the Digital Preferred tier of service to the Digital Starter tier, resulting in an expansion of its distribution to Claxton subscribers. This retiering, however, did not change BTV's channel position.

8. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated: Savannah, GA April 24, 2012

Michael Daves

Exhibit 3

Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC

In the Matter of)	
Applications of Comcast Corporation, General Electric Company and NBCUniversal Inc. for Consent to Assign Licenses and Transfer Control of Licenses.)))))	MB Docket No. 10-56
In the Matter of)	
Bloomberg L.P.,)	
Complainant,)	MB Docket No. 11-104
V.)	
Comcast Cable Communications, LLC,)	
Defendant.)	

DECLARATION OF HOLLIE WALTERSON

- My name is Hollie Walterson. My business address is 5205 Fruitville Road,
 Sarasota, FL 34232.
- I am a Regional Programming Manager, Coastal Region, for Comcast
 Cable Communications, LLC ("Comcast Cable" and, together with its affiliates,
 "Comcast"). I have held that position since February 7, 2010.

- 3. In my position at Comcast, I am responsible for the initial authorization of channel relocations on a number of headends, including the headend that serves Crescent City, Florida.
- 4. The statements made herein are based on personal knowledge or information I obtained during my employment by Comcast, and my review of certain documents.
- 5. I understand that, in comments filed with the Federal Communications Commission on April 10, 2012, Bloomberg has alleged that, between 2011 and 2012, Comcast moved Fox News Channel and CNBC to channels 33 and 37 on the headend serving Crescent City, Florida, thereby placing those networks near CNN and HLN, which occupied channels 35 and 36 on that headend. Bloomberg's allegations are inaccurate.
- 6. The Crescent City headend, which serves subscribers, did not experience any channel lineup changes between 2011 and 2012 of the kind alleged in Bloomberg's comments. On the Crescent City headend, channels 33, 35, 36, and 37 are occupied by Spike TV, AMC, Discovery Channel, and Syfy. These channel positions have not changed in 2011 or 2012. The Crescent City headend does not carry CNBC at all and carries CNN, HLN, and Fox News Channel on channels 26, 27, and 32. These networks have also occupied the same channel positions throughout 2011 and 2012.

7. I declare under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge, and belief.

Dated: Sarasota, FL April 24, 2012

Hollie Walterson